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09/709,233	11/09/2000	Lewis T. Ladocsi	158.7019USU	3087

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EXAMINER

KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/709,233

Applicant(s)

LADOC SI ET AL.

Examiner

Vivek D. Koppikar

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22-43.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Status of the Application*

1. Claims 22-43 have been examined in this application. This communication is the first action on the merits since the applicants filed a request for continued examination (RCE) on October 10, 2006.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-27, 29, 33-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,031,161 to Kendrick in view of US Patent Number 5,692,501 to Minturn and in further view of "Quality Control Measures tracked for heart surgeons" (hereinafter referred to as Quality Control).

(A) As per claim 22, Minturn teaches a computer (microprocessor) system for monitoring or managing life expectancy of a patient comprising (Kendrick: Abstract):

at least one computer processor operatively coupled to said memory with prediction modeling logic for performing steps comprising (Figures 1-2; Col. 4, Ln. 1-22; Col. 5, Ln. 54-Col. 6, Ln. 65 and Claims 4-5):

creating initially said LEP model by correlative analysis of said patient's stored health profile data and a medical information bank, said medical information bank is at least one selected from the group consisting of. demographic, geographic, medical, and lifestyle

Art Unit: 3626

information describing members of a population of a community of which said patient is a member (Col. 6, Ln. 1-67 and Claim 1);

a life expectancy potential (LEP) model determined in dependence on said patient's stored health profile and comprising life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements (Figures 1-2 and Col. 4, Ln. 1-30 and Col. 6, Ln. 1-67);

querying said patient-specific LEP model to determine a life expectancy for said patient should a selected future event occur in said patient's life (Claim 13); and

updating said patient-specific LEP model upon addition of information to said patient's stored health profile data, to said information bank or to a combination thereof, said updating comprising further correlative analysis of said patient's stored health profile data and said information bank (Col. 5, Ln. 54-Col. 6, Ln. 65 and Claims 4-5 and 13).

Kendrick does not explicitly disclose a computer memory storing health profile data comprising medical history data describing the patient, however, this feature is well-known in the art as evidenced by Minturn (Col. 12, Ln. 47-60 and Col. 14, Ln. 37-58). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have included the above recited features from Minturn in the apparatus of Kendrick with the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook, as recited in Minturn (Col. 10, Ln. 5-12).

Kendrick in view of Minturn do not teach that the life expectancy model is patient-specific nor does Kendrick teach that the model determines the effect of a particular factor on a patient based on that patient's specific health profile or history, however these features are taught

Art Unit: 3626

in Quality Control (Paragraphs 2-7). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the model disclosed by Kendrick in view of Minturn with the teachings from Quality Control with the motivation of being able to produce a highly accurate patient model, as recited in Quality Control (Paragraph 4).

(B) As per claim 23, Kendrick and Quality Control do not explicitly disclose that the patient medical history data is at least one selected from the group consisting of birth data, pediatric data, adulthood health data, health data generated from said patient's visit to a healthcare provider, health data generated from medical therapy, health data generated from surgical treatment, and health data generated from psychiatric therapy, however Minturn discloses that the health profile data comprises at least one of the above recited data types (Col. 14, Ln. 65-Col. 15, Ln. 6). At the time of the invention it would have been obvious for one of ordinary skill in the art to have included these aforementioned data types in the system of Kendrick for the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook (Col. 10, Ln. 5-12).

(C) As per claim 24, in the collective system of Kendrick in view of Minturn in view of Quality Control the information added to the patient's stored health profile data is at least one selected from the group consisting of: said patient's chronic or acute disease events, and said patient's lifestyle changes and choices (Kendrick: Col. 2, Ln. 57-64 and Claim 13).

(D) As per claim 25, Kendrick and Quality Control do not explicitly disclose that the information added to said patient's stored health profile data is at least one selected from the group

Art Unit: 3626

consisting of developments or discoveries relating to health matters, and medical information describing new members of said community, however, Minturn discloses that the health profile data comprises at least one of the above recited data types (Col. 14, Ln. 65-Col. 15, Ln. 6). At the time of the invention it would have been obvious for one of ordinary skill in the art to have included these aforementioned data types in the system of Kendrick for the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook (Col. 10, Ln. 5-12).

(E) As per claim 26, the collective system of Kendrick in view of Minturn and Quality Control comprises a microprocessor (Minturn: Figure 3 and Col. 3, Ln. 13-22).

(F) As per claim 27, Kendrick and Quality Control do not explicitly disclose that the data comprises information on the patient's lifestyle, changes in said patient's diet, and changes in said patient's medication intake, however, Minturn discloses the above recited data types (Col. 14, Ln. 65-Col. 15, Ln. 6). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have included the above mentioned data types in the apparatus of Kendrick for the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook (Minturn: Col. 10, Ln. 5-12).

(F) As per claim 29, Kendrick teaches a portable electronic device for monitoring or managing life expectancy of a patient (Kendrick: Abstract) comprising:

a computer memory having encoded therein (Col. 3, Ln. 23-40);

a patient-specific life expectancy potential (LEP) model determined in dependence on said patient's stored health profile and comprising life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements, said LEP model being created initially by correlative analysis of said patient's stored health profile data and a medical information bank, said medical information bank is at least one selected from the group consisting of: demographic, geographic, medical, and lifestyle information describing members of a population of a community of which said patient is a member ((Figures 1-2; Col. 4, Ln. 1-22; Col. 5, Ln. 54-Col. 6, Ln. 65 and Claims 4-5);

an I/O interface permitting external access to said computer memory for:  
querying said specific LEP model to determine expected effects on said patient of a proposed or actual alteration and events in said patient's life (Col. 3, Ln. 22-40; Col. 4, Ln. 1-30 and Col. 5, Ln. 54-Col. 6, Ln. 64); and

updating said specific LEP model upon addition of information to said patient's stored health profile data and/or to said information bank, said updating comprising further correlative analysis of said patient's stored health profile data and said information bank (Col. 5, Ln. 54-Col. 6, Ln. 65 and Claims 4-5 and 13).

Kendrick does not explicitly disclose a computer memory storing health profile data comprising medical history data describing the patient, however, this feature is well-known in the art as evidenced by Minturn (Col. 12, Ln. 47-60 and Col. 14, Ln. 37-58). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have included the above recited features from Minturn in the apparatus of Kendrick with the motivation of

Art Unit: 3626

counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook, as recited in Minturn (Col. 10, Ln. 5-12).

Kendrick in view of Minturn do not teach that the life expectancy model is patient-specific nor does Kendrick teach that the model determines the effect of a particular factor on a patient based on that patient's specific health profile or history, however these features are taught in Quality Control (Paragraphs 2-7). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the model disclosed by Kendrick in view of Minturn with the teachings from Quality Control with the motivation of being able to produce a highly accurate patient model, as recited in Quality Control (Paragraph 4).

(G) As per claim 33, in the portable electronic device of Kendrick and Quality Control does not teach that the information added to said patient's stored health profile data is at least one selected from the group consisting of developments or discoveries relating to health matters, and medical information describing new members of said community; however, Minturn discloses that the health profile data comprises at least one of the above recited data types (Col. 14, Ln. 65-Col. 15, Ln. 6). At the time of the invention it would have been obvious for one of ordinary skill in the art to have included these aforementioned data types in the system of Kendrick for the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook (Col. 10, Ln. 5-12).



Art Unit: 3626

(H) As per claim 34, Kendrick teaches a method for monitoring or managing life expectancy of a patient (Kendrick: Abstract) comprising:

creating initially a patient-specific life expectancy potential (LEP) model by correlative analysis of said patient's stored health profile data and a medical information bank, said medical information bank is at least one selected from the group consisting of demographic, geographic, medical, and lifestyle information describing members of a population of a community of which said patient is a member, said patient-specific LEP model determined in dependence on said patient's stored health profile describing life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements, and said creating comprising computer execution of a plurality of computer instructions (Col. 6, Ln. 1-67 and Claim 1);

querying said patient-specific LEP model to determine a life expectancy for said patient should a selected future event occur in said patient's life, and said querying comprising computer execution of a plurality of computer instructions (Claim 13); and

updating said specific LEP model upon addition of information to said patient's stored health profile data and/or to said information bank, said updating comprising computer execution of a plurality of computer instructions that perform correlative analysis of said patient's stored health profile data and said information bank (Col. 5, Ln. 54-Col. 6, Ln. 65 and Claims 4-5 and 13).

Kendrick does not explicitly the step of storing health profile data comprising medical history data describing the patient, however, this feature is well-known in the art as evidenced by

Art Unit: 3626

Minturn (Col. 12, Ln. 47-60 and Col. 14, Ln. 37-58). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have included the above recited features from Minturn in the method of Kendrick with the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook, as recited in Minturn (Col. 10, Ln. 5-12).

Kendrick in view of Minturn do not teach that the life expectancy model is patient-specific nor does Kendrick teach that the model determines the effect of a particular factor on a patient based on that patient's specific health profile or history, however these features are taught in Quality Control (Paragraphs 2-7). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the model disclosed by Kendrick in view of Minturn with the teachings from Quality Control with the motivation of being able to produce a highly accurate patient model, as recited in Quality Control (Paragraph 4).

(I) As per claim 35, Kendrick and Quality Control does not teach the step wherein a future event is at least one selected from the group consisting of: changes in said patient's lifestyle, changes in said patient's diet, and changes in said patient's medication intake, however, Minturn discloses the above recited data types (Col. 14, Ln. 65-Col. 15, Ln. 6). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have included the above mentioned data types in the method of Kendrick for the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook (Minturn: Col. 10, Ln. 5-12).

Art Unit: 3626

(J) As per claim 36, in the collective method of Kendrick in view of Minturn and Quality Control the LEP model comprises an initial life expectancy potential determination and one or more life expectancy importance factors assigned to specific health profile data elements (Kendrick: Figure 1 and Col. 6, Ln. 1-67), and wherein said correlative analysis comprises dynamically deriving said importance factors from correlation of said patient's stored health profile data to said information bank (Minturn, Col. 12, Ln. 47-60 and Col. 14, Ln. 37-58).

(K) As per claim 37, in collective method of Kendrick in view of Minturn the querying of the LEP model comprises reducing said initial life expectancy potential determination by amounts dependent on said life expectancy importance factors assigned to said future event (Kendrick: Claims 4-5 and 13).

(L) As per claim 38, the collective method of Kendrick in view of Minturn and Quality Control teaches querying said patient-specific LEP model to determined expected alternative life expectancies in case of selected changes in said patient's lifestyle, on changes in said patient's diet, changes in said patient's medication intake, or any combination thereof (Kendrick: Claims 4-5 and 13); and recommending to said patient suitable changes in lifestyle, diet, medication intake or any combination thereof that advantageously effect said patient's expected life expectancy (Minturn: Col. 10, Ln. 5-12). The motivation for modifying Kendrick with the aforementioned feature from Minturn is recited in paragraph (H) above, which addresses Claim 34.

Art Unit: 3626

(M) As per claim 39, the collective method of Kendrick in view of Minturn and Quality Control teaches querying said patient-specific LEP model to determine an expected life expectancy of said patient in the absence of future changes (Kendrick: Claim 13).

(N) As per claim 40, in the collective method of Kendrick in view of Minturn and Quality Control an advantageous effect on said patient's expected life expectancy comprises an expected life expectancy greater than said expected life expectancy in the absence of future changes (Col. 2, Ln. 57-64 and Claims 4-5 and 13).

(O) As per claim 41, the method of Kendrick in view of Minturn and Quality Control does not teach the step of depositing the health profile data of a new member of said community in said information bank; however, however, Minturn discloses that the health profile data comprises the above recited type of data (Col. 14, Ln. 65-Col. 15, Ln. 6). At the time of the invention it would have been obvious for one of ordinary skill in the art to have included these aforementioned data types in the system of Kendrick for the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook (Col. 10, Ln. 5-12).

Kendrick in view of Minturn do not teach that the life expectancy model is patient-specific nor does Kendrick teach that the model determines the effect of a particular factor on a patient based on that patient's specific health profile or history, however these features are taught in Quality Control (Paragraphs 2-7). At the time of the invention, it would have been obvious

Art Unit: 3626

for one of ordinary skill in the art to have modified the model disclosed by Kendrick in view of Minturn with the teachings from Quality Control with the motivation of being able to produce a highly accurate patient model, as recited in Quality Control (Paragraph 4).

(P) As per claim 42, Kendrick teach a computer memory comprising encoded instructions (Kendrick: Abstract) for causing a computer processor to

create initially a patient-specific life expectancy potential (LEP) model by correlative analysis of said patient's stored health profile data and a medical information bank, said medical information bank is at least one selected from the group consisting of demographic, geographic, medical, and lifestyle information describing members of a population of a community of which said patient is a member, said patient-specific LEP model determined in dependence on said patient's stored health profile describing life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements, and said creating comprising computer execution of a plurality of computer instructions (Col. 6, Ln. 1-67 and Claim 1);

query said patient-specific LEP model to determine a life expectancy for said patient should a selected future event occur in said patient's life (Claim 13);

update said specific LEP model upon addition of information to said patient's stored health profile data and/or to said information bank, said updating comprising further correlative analysis of said patient's stored health profile data and said information bank (Col. 5, Ln. 54-Col. 6, Ln. 65 and Claims 4-5 and 13).

Art Unit: 3626

Kendrick does not explicitly a computer memory which stores health profile data comprising medical history data describing the patient, however, this feature is well-known in the art as evidenced by Minturn (Col. 12, Ln. 47-60 and Col. 14, Ln. 37-58). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have included the above recited features from Minturn in the memory of Kendrick with the motivation of counseling participants in making positive improvements in their measured levels of optimum wellness, health and outlook, as recited in Minturn (Col. 10, Ln. 5-12).

Kendrick in view of Minturn do not teach that the life expectancy model is patient-specific nor does Kendrick teach that the model determines the effect of a particular factor on a patient based on that patient's specific health profile or history, however these features are taught in Quality Control (Paragraphs 2-7). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the model disclosed by Kendrick in view of Minturn with the teachings from Quality Control with the motivation of being able to produce a highly accurate patient model, as recited in Quality Control (Paragraph 4).

(Q) As per claim 43, this claim is substantially similar to claim 29 and is therefore rejected on the same basis as claim 29 (the rejection is set forth above).

5. Claim 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kendrick and Minturn and Quality Control as applied to claims 22 and 29 above, respectively, and further in view of US Patent Number 5,867,821 to Ballantyne.

Art Unit: 3626

(A) As per claims 28 and 30, Kendrick in view of Minturn do not explicitly disclose a means for providing secure access only to said health profile data and said altered or adjusted data.

However, Ballantyne discloses a means for providing secure access only to said health profile data and said altered or adjusted data (i.e. personal ID number) (Col. 7, Ln. 66-Col. 8, Ln. 34).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have included a means for providing secure access only to said health profile data and/or altered or adjusted data as disclosed by Ballantyne within Kendrick and Minturn for the motivation of authenticating individuals requesting access to the health profile data (i.e. health record database) (Col. 8, Ln. 1-5).

6. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kendrick in view of Minturn and Quality Control and Ballantyne as applied to Claim 30 above and in further view of US Patent Number 5,193,855 to Shamos.

(A) As per claim 32, Kendrick, Minturn, Quality Control and Ballantyne do not teach that the access control data is at least one selected from the group consisting of: fingerprint identification data, footprint identification data, DNA identification data, imagery identification data, and password data, however this feature is well known in the art as evidenced by Shamos (Abstract and Col. 3, Ln. 55-Col. 4, Ln. 11). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the collective device of Kendrick, Minturn and Ballantyne with the aforementioned feature from Shamos with the expectation of providing additional identification support for a healthcare provider system, as recited in Shamos (Col. 4, Ln. 5-11).

***Response to Arguments***

7. Applicant's arguments with respect to the pending claims filed on October 10, 2006 have been considered but are moot in view of the new grounds of rejection.

***Examiner's Suggestions***

8. The examiner recommends claiming the particular "life expectancy importance factors" that are described in Claim 22 and/or also reciting the particular life expectancy model in the claims because the prior art of record does not mention particular "life expectancy importance factors" which are important to a particular patient nor does the prior art of record disclose particular, patient-specific models for determining life expectancies of a patient. The examiner also recommends that the applicants claim the process or method by which these patient-specific "life expectancy importance factors" are derived.

***Conclusion***

9. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either



Art Unit: 3626

Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,

*VVK*  
Vivek Koppikar

11/27/2006

*Robert Morgan*  
Robert Morgan  
Patent Examiner  
Art Unit 3626